

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

THOMAS W. ADAMS,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 2:18-CV-794-MHT
)	[WO]
BILL FRANKLIN, <i>et al.</i> ,)	
)	
Respondents.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

On September 20, 2018, this court entered an order that directed Petitioner, who is incarcerated at the Elmore County Jail, either to submit the \$5.00 filing fee by October 4, 2018, or file by that same date a prison account statement from the account clerk at the Elmore County Jail containing the account clerk's certified statement of the balance in Petitioner's prison account in support of Petitioner's motion for leave to proceed *in forma pauperis* in this action for habeas corpus relief under 28 U.S.C. § 2254. Doc. No. 4. Petitioner was specifically cautioned that his failure to comply with the court's September 20, 2018 order would result in a recommendation that his case be dismissed. *Id.* at 2.

The allotted time has passed, and Petitioner has filed nothing in response to the court's September 20, 2018 order. Consequently, the court concludes that dismissal of this case without prejudice is appropriate for Petitioner's failure to comply with the court's order. *See Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) (generally, where a litigant has been forewarned, dismissal for failure to obey a court order is not an abuse of discretion).

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED WITHOUT PREJUDICE for Petitioner's failure to comply with the order of this court.

It is further ORDERED that on or before November 1, 2018, Petitioner may file objections to the Recommendation. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which he objects. Frivolous, conclusive or general objections will not be considered by the District Court. Petitioner is advised that this Recommendation is not a final order of the court; therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar a party from a *de novo* determination by the District Court of factual findings and legal issues covered in the report and shall "waive the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions" except upon grounds of plain error if necessary in the interests of justice. 11TH Cir. R. 3-1; *see Resolution Trust Co. v. Hallmark Builders, Inc.*, 996 F.2d 1144, 1149 (11th Cir. 1993).

Done, on this the 18th day of October, 2018.

/s/ Susan Russ Walker
Susan Russ Walker
United States Magistrate Judge